



U.S. Department of Justice

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June 11, 2025

BY ECF

Hon. Vernon S. Broderick
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

**Re: *The Intercept Media, Inc. v. U.S. Department of Government Efficiency et al.*,
25 Civ. 2404 (VSB)(OTW)**

Dear Judge Broderick:

This Office represents defendants in this action brought pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). Defendants’ motion to dismiss the complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) is now fully briefed. We write respectfully to update the record regarding the status of certain litigation pending in the District of Columbia, *CREW v. USDS*, 25 Civ. 511 (D.D.C.), that is discussed in the parties’ motion papers in this case.

As noted in defendants’ reply memorandum of law in this case, *see* ECF No. 21 at 9-10 n.4, the D.C. Circuit denied the government’s petition for a writ of mandamus to quash the district court’s discovery orders in the *CREW* case. Thereafter, the government filed an application to the U.S. Supreme Court to stay the district court’s discovery orders. *See In re U.S. Doge Service*, No. 24A1122 (U.S. May 21, 2025). On June 6, 2025, the Supreme Court granted the government’s stay application, vacated the D.C. Circuit’s order denying a writ of mandamus, and remanded for further consideration. A copy of the Supreme Court’s June 6, 2025, Order (“Order”) is enclosed herewith.

Of particular relevance to this case, the Supreme Court instructed that “[a]ny inquiry into whether an entity is an agency for the purposes of the Freedom of Information Act cannot turn on the entity’s ability to persuade.” Order at 1. This underscores that the FOIA inquiry is appropriately focused on the responsibilities delegated by the President to USDS in the charter documents, *see* USDS Reply (ECF No. 21), Point I, and not on the purported influence wielded by USDS or DOGE teams operating within agencies, *see id.* at 8.

We thank the Court for its consideration of this letter.

Respectfully,

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